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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/516,509

12/01/2004

Vimala Sarma

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7590

09/06/2006

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EXAMINER

MATHEW, FENN C

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/516,509

**Applicant(s)**

SARMA, VIMALA

**Examiner**

Fenn C. Mathew

**Art Unit**

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-57 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 33-57 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/01/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

*See* Misnumbered claims 1-25 have been renumbered 33-57.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

*See* 33-39, 41-57  
3. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Levine et al. (U.S. 6,045,489). Referring to claim 33, Levine discloses a leg exercise device having a relatively rigid base (30), at least one first variable volume chamber (46) mounted on the base, at least one second variable volume chamber (47) mounted on the base, a passageway (44) interconnecting the at least one first chamber with the second chamber, a volume of fluid less than the combined maximum volume of the first and second chambers being located in the first and second chambers, a first surface sized and located to receive a first part of a user's foot and convey compressive force

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between the first part and the first chamber, and a second surface sized and located to receive a second part of a user's foot and convey compressive force between the second part and the second chamber. Referring to claim 34, Levine discloses that a user can use multiple parts of the same foot to convey compressive force. Referring to claim 35, Levine discloses a device wherein a user can use both feet separately to convey compressive forces. Referring to claim 36, Levine discloses the first surface including a part of the first chamber. Referring to claim 37, Levine discloses the second surface including part of the second chamber. Referring to claim 38, Levine discloses the chambers being defined by a flexible wall/membrane. Referring to claim 39, Levine discloses the flexible wall member formed of an elastic material. Referring to claim 41, Levine discloses a flexible membrane attached to the base, the base and at least part of the flexible member defining the first chamber. Referring to claim 42, Levine discloses the flexible membrane defines the first chamber and second chamber. Referring to claim 43, Levine discloses a recess for each chamber. Referring to claim 44, Levine discloses the base including non-recessed surfaces. Referring to claim 45, in figs. 4-5, Levine discloses the flexible membrane secured to the base with a 'clamp'. Referring to claim 46, Levine discloses the passageway including a recess. Referring to claim 47, Levine discloses the passageway including an external tube. Referring to claim 48, Levine discloses the base including first and second portions mounted to each about a hinge line (as best understood). Referring to claim 49, as best understood, Levine teaches both portions having a first and second chamber. Referring to claim 50, Levine discloses an opening (45) through which fluid may be selectively introduced or

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removed. Referring to claim 51, as best understood Levine discloses resistance to fluid flow between the first and second chambers in the same direction. Referring to claim 52, Levine teaches the use of a valve. Referring to claim 53, Levine teaches the valve is operable to selectively link the first and second chamber. Referring to claim 54, Levine discloses the first chamber for a first foot, and the second chamber for the second foot. Referring to claim 55, Levine discloses a mounting for attachment of the device to another object (the handrails). Referring to claim 56, Levine discloses the base comprising a footrest for one or two of a user's feet. Referring to claim 57, Levine discloses an article of furniture including the device of claim 1 (absent further limitation, the device of Levine could be considered a footrest).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levine alone. Levine teaches the claimed invention except for the feature of the bladder being made of an inelastic material. Levine teaches that the bladder is required to be flexible, and that any suitable material may be used to form the bladder. The specific feature of having the bladder formed from an inelastic member would have been a matter of ordinary choice within the knowledge of one with ordinary skill in the art.


**Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hribar (U.S. 4,146,222), Markwitz (U.S. 3,987,506), and Schild (GB 2376415) teach examples of exercisers utilizing dual fluid filled chambers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Fenn C. Mathew  
September 4, 2006